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October 22, 2007

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

RE: Notice of Written *Ex Parte* Presentation
WC Docket No. 05-25; WC Docket No. 06-147

Dear Ms. Dortch:

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless ("SouthernLINC Wireless"), through its attorneys, respectfully submits this *ex parte* letter in the above-referenced dockets in order to urge the Federal Communications Commission ("Commission") to take prompt and decisive action to address the marked failure in the special access marketplace.¹ Specifically, the Commission should adopt the Ad Hoc/CompTel proposals, elements of which are supported by PAETEC, Global Crossing, T-Mobile, Sprint Nextel and others.

SouthernLINC Wireless operates a commercial digital 800 MHz ESMR system using Motorola's proprietary Integrated Digital Enhanced Network (iDEN) technology to provide dispatch, interconnected voice, Internet access, and data transmission services over mobile phone handsets. SouthernLINC Wireless is licensed by the Commission to provide cellular communications services in Alabama, Florida, Georgia, and Mississippi, where it serves nearly 300,000 subscribers over 127,000 square miles. SouthernLINC Wireless offers the most comprehensive geographic coverage of any mobile wireless provider in Alabama and Georgia, servicing extensive rural territory along with major metropolitan areas and highway corridors,

¹ *Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, 20 FCC Rcd 1994 (2005) ("*Special Access Reform Rulemaking*").

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and as such is widely used by local and statewide governmental institutions, public utilities and emergency services.

SouthernLINC Wireless is committed to offering high-quality telecommunications services to rural and underserved areas, and approximately half of the total customers SouthernLINC Wireless serves are located outside of major metropolitan areas. SouthernLINC Wireless is also the wireless service provider to the state of Alabama and to many government agencies in Georgia. In fact, approximately 30% of the total handsets SouthernLINC Wireless serves are used by public sector employees, first responders or utility personnel,² which illustrates how important the services of SouthernLINC Wireless are to residents in those areas, particularly in times of crises. During the emergency conditions created by the fifteen named hurricanes and countless ice storms that have struck its service territory since SouthernLINC Wireless began operating in 1995, SouthernLINC Wireless was often the only available means of communications. In the aftermath of Hurricane Katrina, for example, SouthernLINC Wireless in many instances provided the only immediate means of communication in coastal Mississippi and Alabama. As these facts illustrate, independent regional wireless carriers like SouthernLINC Wireless serve the public interest by focusing upon the unique needs of their home markets.

Independent wireless carriers like SouthernLINC Wireless also serve an important role under the Commission's current policies and regulatory framework. Competition from unaffiliated service providers is important to ensuring that the public interest is served and the goals of the Telecommunications Act of 1996 are achieved. Indeed, the current regulatory framework is based in part upon the assumption that intermodal competition will ensure that the incumbent local exchange carriers ("ILECs") will not be able to abuse their market power to the detriment of the public interest. For example, the Commission relied extensively on intermodal competition, including competition from wireless services, to justify its approval of the merger between AT&T and BellSouth.³ Accordingly, it would be unreasonable for the Commission to

² The services provided to utility personnel facilitate the continued availability of power during emergencies.

³ *AT&T Inc. and BellSouth Corp. Application for Transfer of Control*, 22 FCC Rcd 5662, 5714, 5715 (2007) (finding that "growing numbers of subscribers ... are choosing mobile wireless service instead of wireline local service" and that wireless services "should be included within the product market for local services" for the purposes of determining whether adequate competition exists to allow a merger); *see also SBC Comm'n's Inc. & AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18920, 18333-18335 (2005) (finding that "intermodal competition from cable telephony and mobile wireless service providers, and providers of certain VoIP services will likely continue to provide [enterprise] customers with viable alternatives"); *Verizon Comm'n's Inc. and MCI, Inc. Application for Transfer of Control*, 20 FCC Rcd 18433, 18475, 18482 (2005) (finding that "intermodal competition from cable telephony and mobile

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rely on intermodal competition on the one hand to justify various deregulatory measures, but then on the other hand to discount the crucial importance of ILEC-provided special access facilities and services to intermodal competitors. Intermodal competitors cannot provide customers with viable alternatives to ILEC services if the ILECs are able to charge supra-competitive prices for crucial facilities and services upon which the competitors must rely and can, in most locations, only obtain from the ILEC.

The record in the above-referenced proceedings clearly demonstrates, in great detail, that there is a marked failure in the special access marketplace.⁴ Independent wireless carriers like SouthernLINC Wireless and T-Mobile increasingly rely on special access services provided by the ILEC to offer service.⁵ In fact, 95% of the special access services SouthernLINC Wireless relies upon are provided by the ILECs,⁶ and in many areas they are priced at supra-competitive

wireless service providers, and providers of certain VoIP services will likely continue to provide [enterprise] customers with viable alternatives”); *Applications of Nextel Commun’s, Inc. and Sprint Corp. for Consent to Transfer Control of Licenses and Authorizations*, 20 FCC Rcd 13967, 14017-14019 (2005) (stating the Commission seeks to create “regulatory conditions for robust intermodal competition” and that the proposed acquisition was likely to “to result in greater intermodal competition based on the fact that the Applicants are independent wireless carriers”) (“Sprint/Nextel Order”); *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 USC §160(c)*, 19 FCC Rcd 21496, ¶ 29 (2004) (stating that the Commission expects intermodal competition to become increasingly robust) *aff’d EarthLink, Inc. v. FCC*, No. 05-1087 (D.C. Cir. 2006).

⁴ See, e.g., Ex Parte Communication of T-Mobile (filed Oct. 11, 2007); Reply Comments of Sprint Nextel Corp. at 6-11 (filed Aug. 15, 2007); Reply Comments of PAETEC Communications, Inc. and US LEC Corp. at 4-5 (filed Aug. 15, 2007).

⁵ See, e.g., Ex Parte Letter from Kathleen O’Brien Ham, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25, at 1 (filed Oct. 11, 2007); see *Special Access Pricing* at 1-3, attached to Ex Parte Letter from Gil Strobel, Counsel, Sprint Nextel Corp., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25 (Oct. 5, 2007) (“Sprint Ex Parte Attachment”). See also, e.g., Comments of Sprint Nextel Corp. at 29-33 (filed Aug. 8, 2007); Ex Parte Letter from Gil Strobel, Counsel to Sprint Nextel Corp., to Marlene H. Dortch, Secretary, FCC, WC Dkt. 05-25, at 3 (filed Oct. 10, 2007).

⁶ See also, Comments of PAETEC Communications, Inc. and US LEC Corp. at 5 (filed Aug. 8, 2007) (noting that “in 2005, PAETEC informed the Commission that rather than being able to obtain alternative means of special access to reach its customers, it was dependent on ILECs for 95 percent of its special access service lines in markets where Phase II pricing flexibility had been implemented.”).

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levels. SouthernLINC Wireless agrees with T-Mobile that the Commission can and should act upon the current record.⁷

For these reasons, SouthernLINC Wireless respectfully urges the Commission to take prompt and decisive action to address the marked failure in the special access marketplace. Specifically, the Commission should adopt the Ad Hoc/CompTel proposals,⁸ elements of which are supported by PAETEC,⁹ Global Crossing,¹⁰ T-Mobile,¹¹ Sprint Nextel¹² and others. As required by Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion

⁷ T-Mobile Ex Parte at 2. *See also, e.g.*, Reply Comments of Sprint Nextel Corp. at 5-6 (filed Aug. 15, 2007); Comments of PAETEC Communications, Inc. and US LEC Corp. at 17-18 (filed Aug. 8, 2007) (“PAETEC Comments”).

⁸ *See, e.g., Proposal for Interim Special Access Relief*, Ad Hoc/CompTel Ex Parte Letter from Colleen Boothby, Counsel, Ad Hoc Telecommunications Users Committee, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25 (Oct. 9, 2007) (filed on behalf of COMPTel, the Ad Hoc Telecommunications Users Committee, Time Warner Telecom, TelNet Worldwide, NuVox and XO Communications) (“Ad Hoc/CompTel Ex Parte Attachment”).

⁹ *See, e.g.*, PAETEC/Global Crossing Letter from Paul Kouroupas, Global Crossing, and JT Ambrosi, PAETEC, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25 (Oct. 8, 2007) (recommending that the Commission “Eliminate anticompetitive provisions in BOC special access contracts.”); PAETEC Comments at n.40 (stating that “PAETEC in 2005 called for the Commission to . . . (3) implement annual price cap adjustments to account for changes in market dynamics . . .”).

¹⁰ *Id.*

¹¹ *See* Notice of Ex Parte Communication from Thomas J. Sugrue, T-Mobile to Marlene H. Dortch, Secretary, FCC, WC Dkt. 05-25, Attachment A (filed Aug. 30, 2007) (stating that “[t]he Commission should reform the special access price cap rules; Immediately impose an interim 5.3% X-factor . . .”); Ex Parte Letter from Kathleen O’Brien Ham, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25, at 3 (filed Oct. 11, 2007) (recommending the Commission “[b]ar price cap ILECs from all forms of anticompetitive and exclusionary behavior regarding the terms and conditions of their special access services. Reform the price cap regime to account for both firm-wide productivity growth as well as increases in scale economies for special access services through mechanisms such as a productivity factor.” And noting that “AdHoc, CompTel and various CLECs also support a one-time downward exogenous adjustment for a productivity factor.” *Id.* at n.8).

¹² *See, e.g.*, Sprint Nextel Comments at 40-41 (recommending that “the FCC should also . . . place all of the affected special access services under price caps. . . the Commission should require them to use an X-Factor of 5.3% on a going-forward basis, pending the Commission’s adoption of an updated factor.”).

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in the public record of the above-referenced proceeding. Please contact me at (202) 342-8602, if you have any questions.

Respectfully submitted,



Todd D. Daubert
Counsel for SouthernLINC Wireless

cc (via e-mail): Chairman Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Tate
Commissioner Robert McDowell